

107TH CONGRESS
2D SESSION

H. R. 4636

To amend certain labor laws to ensure fairness.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2002

Mr. NORWOOD (for himself, Mr. DELAY, Mr. BALLENGER, Mr. SAM JOHNSON of Texas, Mr. GRAHAM, Mr. DEMINT, Mr. CULBERSON, and Mr. TANCREDO) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend certain labor laws to ensure fairness.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Workers’ Bill of
5 Rights”.

6 **SEC. 2. NATIONAL LABOR RELATIONS ACT.**

7 (a) RECOGNITION OF REPRESENTATIVE.—

8 (1) IN GENERAL.—Section 8(a)(2) of the Na-
9 tional Labor Relations Act (29 U.S.C. 158(a)(2)) is

1 amended by inserting before the colon the following:
2 “or to recognize or bargain collectively with a labor
3 organization that has not been selected by such em-
4 ployees in a secret ballot election conducted in ac-
5 cordance with section 9”.

6 (2) APPLICATION.—The amendment made by
7 subsection (a) shall not apply to collective bar-
8 gaining relationships that were recognized before the
9 date of the enactment of this Act.

10 (b) LIMITATION ON DUES COLLECTION AGREE-
11 MENT.—Section 8(a)(3) of the National Labor Relations
12 Act (29 U.S.C. 158(a)(3)) is amended to read as follows:

13 “(3) by discrimination in regard to hire or ten-
14 ure of employment or any term or condition of em-
15 ployment to encourage membership in any labor or-
16 ganization: *Provided*, That nothing in this Act, or in
17 any other statute of the United States, shall pre-
18 clude an employer from making an agreement with
19 a labor organization (not established, maintained, or
20 assisted by any action defined in this subsection as
21 an unfair labor practice) to require as a condition of
22 employment payment of dues or a fee equal to that
23 portion of dues actually spent on collective bar-
24 gaining representation of the employees in the collec-
25 tive bargaining unit covered by such agreement on

1 or after the 30th day following the beginning of such
2 employment or the effective date of such agreement,
3 whichever is the later (A) if such labor organization
4 is the representative of the employees as provided in
5 section 9(a) in the appropriate collective-bargaining
6 unit covered by such agreement when made, (B) if
7 such agreement provides that employees are allowed
8 to elect to pay a reduced fee instead of dues at any
9 reasonable time, but not less than once per month,
10 by notifying at any time their collective bargaining
11 representative of this election and that all employees
12 covered by such arrangement are clearly notified of
13 their rights by the labor organization under this
14 paragraph in a separate written notice delivered
15 personally or by mail upon hiring and thereafter
16 not less than once each year, and (C) unless fol-
17 lowing an election held as provided in section 9(e)
18 within one year preceding the effective date of such
19 agreement, the Board shall have certified that a ma-
20 jority voting in such election have voted to rescind
21 the authority of such labor organization to make
22 such an agreement: *Provided further*, That no em-
23 ployer shall justify any discrimination against an
24 employee for nonmembership in a labor organization
25 (i) if he has reasonable grounds for believing that

1 membership was not available to the employee on
2 the same terms and conditions generally applicable
3 to other members, or (ii) if he has reasonable
4 grounds for believing that membership was denied
5 or terminated for reasons other than the failure of
6 the employee to tender the periodic dues and the ini-
7 tiation fees uniformly required as a condition of ac-
8 quiring or retaining membership.”.

9 (c) MEMBERSHIP RIGHT TO VOTE ON CONTRACTS.—
10 Section 8(b) of the National Labor Relations Act (29
11 U.S.C. 158(b)) is amended—

12 (1) by striking “and” at the end of paragraph
13 (6);

14 (2) by striking the period at the end of the
15 paragraph (7) and inserting a semicolon; and

16 (3) by adding at the end the following:

17 “(8) to strike an employer unless the employees
18 of the collective bargaining unit engaged in the
19 strike have voted by secret ballot to reject the last
20 contract offer proposed by such employer; and”.

21 (d) ELECTION REQUIRED.—

22 (1) IN GENERAL.—Section 8(b) of the National
23 Labor Relations Act (29 U.S.C. 158(b)), as amend-
24 ed by subsection (c) of this section, is amended by
25 adding at the end the following:

1 “(9) to cause or attempt to cause an employer
2 to recognize or bargain collectively with a represent-
3 ative of a labor organization that has not been se-
4 lected by such employees in a secret ballot election
5 conducted in accordance with section 9.”.

6 (2) APPLICATION.—The amendment made by
7 paragraph (1) shall not apply to collective bar-
8 gaining relationships that were recognized before the
9 date of the enactment of this Act.

10 (e) SECRET BALLOT ELECTION.—Section 9(a) of the
11 National Labor Relations Act (29 U.S.C. 159(a)), is
12 amended—

13 (1) by inserting “(1)” after “(a)”;

14 (2) by inserting after “designated or selected”
15 the following: “by a secret ballot election conducted
16 in accordance with this section”; and

17 (3) by adding at the end the following:

18 “(2) Paragraph (1) shall not apply to collective bar-
19 gaining relationships that were recognized before the date
20 of the enactment of the Workers’ Bill of Rights Act.”.

21 (f) CONTRACT BAR.—Section 9(c)(1) of the National
22 Labor Relations Act (29 U.S.C. 159(c)(1)) is amended by
23 adding at the end the following sentence: “The Board shall
24 not refrain to direct an election under this section on the
25 grounds of the existence of a collective bargaining contract

1 that became effective 1 or more years before the filing of
 2 a petition for such election.”.

3 (g) DEAUTHORIZATION OF UNION SECURITY AGREE-
 4 MENTS.—Section 9(e)(1) of the National Labor Relations
 5 Act (29 U.S.C. 159(e)(1)) is amended by adding at the
 6 end the following sentence: “Such authority shall be re-
 7 scinded if a majority of the ballots cast vote to rescind
 8 the authority.”.

9 (h) ENFORCEMENT OF LIMITATION ON DUES
 10 AGREEMENT.—Section 10 of the National Labor Rela-
 11 tions Act (29 U.S.C. 160) is amended—

12 (1) by redesignating subsection (m) as sub-
 13 section (n); and

14 (2) by inserting after subsection (l) the fol-
 15 lowing:

16 “(m) MONEY DAMAGES.—

17 “(1) LIABILITY.—If an employee disputes the
 18 amount of fees collected by the labor organization
 19 under an agreement with the employer under section
 20 8(a)(3), such employee may bring a civil action
 21 against the labor organization—

22 “(A) for total damages, for each employee,
 23 equal to—

24 “(i) 10 times the amount of fees
 25 taken in violation of this section;

1 “(ii) the interest on the amount de-
2 scribed in clause (i) calculated at the pre-
3 vailing rate; and

4 “(iii) not more than \$1,500 in puni-
5 tive damages; and

6 “(B) for such equitable relief as may be
7 appropriate.

8 “(2) RIGHT OF ACTION.—An action to recover
9 the damages or equitable relief prescribed in para-
10 graph (1) may be maintained against any labor or-
11 ganization in any Federal court of competent juris-
12 diction by any one or more employees for and on be-
13 half of—

14 “(A) the employees; or

15 “(B) the employees and other employees
16 similarly situated.

17 “(3) FEES AND COSTS.—The court in such ac-
18 tion shall, in addition to any judgment awarded to
19 the plaintiff, allow for reasonable attorney’s fee, ex-
20 pert witness fees, and other costs of the action to be
21 paid by the defendant.

22 “(4) LIMITATION.—An action may be brought
23 under this subsection not later than 2 years after the
24 date the employee knew or should have known that
25 dues or fees were accepted or spent by a labor orga-

1 nization in violation of this Act, except that such pe-
2 riod shall be extended to 3 years in the case of a
3 willful violation by a labor organization.”.

4 **SEC. 3. LABOR MANAGEMENT AND REPORTING ACT.**

5 (a) RECIPIENTS OF FEDERAL FUNDS.—Section 3(e)
6 of the Labor-Management Reporting and Disclosure Act
7 of 1959 (29 U.S.C. 402(e)) is amended—

8 (1) by striking “Employer” and inserting “(1)
9 Except as provided in paragraph (2), employer”; and

10 (2) by adding at the end the following new
11 paragraph:

12 “(2) Notwithstanding the exclusion in paragraph (1),
13 an employer shall also include any employer or any group
14 or association of employers that receives Federal funds.”.

15 (b) DISCLOSURE.—Section 3 of the Labor-Manage-
16 ment Reporting and Disclosure Act of 1959 (29 U.S.C.
17 402) is amended by adding at the end the following new
18 subsection:

19 “(s) ‘Core dues payer’ means any employee,
20 other than a member, who pays dues, fees or assess-
21 ments to a labor organization as a result of an
22 agreement between an employer and a labor organi-
23 zation.”.

1 (c) VOTING.—Section 101(a) of the Labor-Manage-
 2 ment Reporting and Disclosure Act of 1959 (29 U.S.C.
 3 411(a)) is amended—

4 (1) in paragraph (1)—

5 (A) by inserting “(A)” after “(a)(1)”; and

6 (B) by striking “RIGHTS” in the heading
 7 and inserting “RIGHTS FOR MEMBERS”;

8 (2) by inserting after paragraph (1)(A) (as des-
 9 ignated by paragraph (1)(A) of this subsection) the
 10 following new subparagraph:

11 “(B) RIGHTS FOR CORE DUES PAYERS.—Every core
 12 dues payer shall have the same right as any member of
 13 the labor organization to participate in any vote that con-
 14 cerns a strike by the bargaining unit in which such em-
 15 ployee is employed or that concerns the wages, benefits,
 16 or working conditions of the employees of such bargaining
 17 unit.”.

18 (d) AVAILABILITY OF INFORMATION.—Section 201(c)
 19 of the Labor-Management Reporting and Disclosure Act
 20 of 1959 (29 U.S.C. 431(c)) is amended to read as follows:

21 “(c) AVAILABILITY OF INFORMATION TO MEMBERS;
 22 EXAMINATION OF BOOKS, RECORDS AND ACCOUNTS.—
 23 Each labor organization required to submit a report under
 24 this title, shall make available the information required to
 25 be contained in such report to all of its members and core

1 dues payers, and every such labor organization and its of-
 2 ficers shall be under a duty enforceable at the competent
 3 jurisdiction or in the district court of the United States
 4 for the district in which such labor organization maintains
 5 its principal office, to permit such member or core dues
 6 payer to examine any books, records, and accounts nec-
 7 essary to verify such report, unless the labor organization
 8 shows that such examination is initiated primarily for vex-
 9 atious purposes.”.

10 (e) PURPOSES OF ESTABLISHMENT OF TRUSTEE-
 11 SHIP.—

12 (1) TRUSTEESHIP.—Section 302 of the Labor-
 13 Management Reporting and Disclosure Act of 1959
 14 (29 U.S.C. 462) is amended—

15 (A) by inserting “(a)” before “Trustee-
 16 ships”; and

17 (B) by adding at the end the following:

18 “(b)(1) Except as provided in paragraph (2), a trust-
 19 eeship may be authorized only after a fair hearing either
 20 before the executive board or such other body as may be
 21 provided by the constitution and bylaws of the labor orga-
 22 nization and only if, in such hearing, the labor organiza-
 23 tion establishes by the preponderance of evidence that the
 24 trusteeship is necessary for a purpose allowable under this
 25 section.

1 “(2) If immediate action is necessary to fulfill the
2 purposes of this section, a temporary trusteeship may be
3 established, for not more than 30 days, pending a hearing
4 under paragraph (1).”.

5 (2) ENFORCEMENT.—Section 304(c) of the
6 Labor-Management Reporting and Disclosure Act of
7 1959 (29 U.S.C. 464(c)) is amended to read as fol-
8 lows: “(c) Eighteen months after the authorization
9 of a trusteeship, such trusteeship shall be presumed
10 invalid in any proceeding pursuant to this section
11 and its discontinuance shall be decreed unless the
12 labor organization shall show by clear and con-
13 vincing proof that the continuation of the trustee-
14 ship is necessary for a purpose allowable under sec-
15 tion 302. In the latter event the court may dismiss
16 the complaint or retain jurisdiction of the cause on
17 such conditions and for such period as it deems ap-
18 propriate.”

19 (3) DISSOLUTION OF TRUSTEESHIP.—Section
20 304 of the Labor-Management Reporting and Dis-
21 closure Act of 1959 (29 U.S.C. 464) is amended by
22 adding at the end the following:

23 “(d) Upon dissolution of a trusteeship, the previously
24 elected officers of the local union shall be reinstated or
25 a new election promptly held in conformity with title IV.

1 If the trusteeship is dissolved by order of a court pursuant
 2 to this title, and the court orders an election, such election
 3 shall be conducted under the supervision of the court.”.

4 (f) ELECTIONS.—

5 (1) MEMBERSHIP LISTS.—Section 401(c) of the
 6 Labor-Management Reporting and Disclosure Act of
 7 1959 (29 U.S.C. 481(c)) is amended—

8 (A) by striking “30 days” and inserting
 9 “60 days”; and

10 (B) by striking “to inspect a list” and in-
 11 serting “to inspect and, upon request, to be
 12 provided with a copy of a list”.

13 (2) DISTRICT COUNCIL OFFICERS.—Section
 14 401(d) of the Labor-Management Reporting and
 15 Disclosure Act of 1959 (29 U.S.C. 481(d)) is
 16 amended to read as follows:

17 “(d) Officers of intermediate bodies, such as general
 18 committees, system boards, joint boards or joint councils
 19 who engage in negotiation, administration or enforcement
 20 of collective agreements, or exercise control over the fi-
 21 nances or other major functions of local unions, shall be
 22 elected not less often than once every 4 years by secret
 23 ballot among members in good standing. Officers of other
 24 intermediate bodies may be elected by representatives of

1 such members who have been elected by secret ballot by
2 members in good standing.”.

3 (3) QUALIFICATIONS.—Section 401(e) of the
4 Labor-Management Reporting and Disclosure Act of
5 1959 (29 U.S.C. 481(e)) is amended by striking
6 “and to reasonable qualifications uniformly im-
7 posed” and by inserting after “eligible to be a can-
8 didate” the following: “(subject to reasonable quali-
9 fications which do not exclude a majority of the
10 members and which are uniformly imposed)”.

11 (4) OVERTURNING.—Section 402(c)(2) of the
12 Labor-Management Reporting and Disclosure Act of
13 1959 (29 U.S.C. 482(c)(2)) is amended by striking
14 “affected the outcome of an election” and inserting
15 “substantially understated or overstated the support
16 of one of the candidates for office to the point that
17 the democratic purposes of the election were under-
18 mined”.

19 (g) INTERVENTION OF SECRETARY.—Section 501(b)
20 of the Labor-Management Reporting and Disclosure Act
21 of 1959 (29 U.S.C. 501) is amended by adding the fol-
22 lowing sentence: “The Secretary may intervene in a suit
23 filed under this section if the Secretary determines it is
24 appropriate.”.

1 (h) CIVIL MONEY PENALTIES.—Title VI of the
2 Labor-Management Reporting and Disclosure Act of 1959
3 (29 U.S.C. 521, et seq.) is amended—

4 (1) by redesignating section 611 as section 612;
5 and

6 (2) by inserting after section 610 the following:

7 **“SEC. 611. CIVIL MONEY PENALTIES.**

8 “(a) IN GENERAL.—The Secretary, upon finding a
9 violation of either sections 201(a), 201(b), 202, 203, or
10 301 of this Act, may require the person, labor organiza-
11 tion, or employer responsible for such violation to pay a
12 civil money penalty in an amount determined under a
13 schedule of penalties which is established and published
14 by the Secretary and which takes into account the nature
15 of the violation involved, the revenues of, and the existence
16 of previous violations of the Act by, the person, labor orga-
17 nization or employer involved, and such other factors as
18 the Secretary considers appropriate.

19 “(b) NOTICE.—The Secretary may not make any de-
20 termination adverse to a person, labor organization, or
21 employer under subsection (a) until such person, labor or-
22 ganization, or employer is given written notice and an op-
23 portunity to be heard before the Secretary or designee.
24 Procedures for such notice, opportunity to be heard, deci-
25 sion and review shall be as set forth under sections 208

1 and 606. A request for review shall be filed in Federal
2 district court not later than 30 days after receipt of an
3 adverse determination.”.

4 **SEC. 4. REGULATIONS.**

5 Not later than 6 months after the date of the enact-
6 ment of this Act—

7 (1) the National Labor Relations Board shall
8 review and revise all regulations promulgated before
9 such date to implement the amendments made in
10 this Act to the National Labor Relations Act; and

11 (2) the Secretary of Labor shall review and re-
12 vise all regulations promulgated before such date to
13 implement the amendments made in this Act to the
14 Labor-Management Reporting and Disclosure Act of
15 1959.

16 **SEC. 5. LIMITATION ON SUPERVISION.**

17 (a) IN GENERAL.—A court order that requires—

18 (1) a third party to monitor the actions and ex-
19 penditures of a labor organization and its officers,
20 and

21 (2) the labor organization to pay for the ex-
22 penses of the third party for such monitoring,
23 shall cease to be effective 10 years after such order is
24 issued.

1 (b) APPLICATION.—Subsection (a) shall apply to any
2 court order issued on or after the date of enactment of
3 this Act and any court order issued before such date.

4 **SEC. 6. CONSPIRACY TO RESTRAIN WORKERS' ABILITY TO**
5 **SELECT REPRESENTATIVE.**

6 Section 6 of the Clayton Act (15 U.S.C. 17) is
7 amended by adding at the end the following: “Nothing in
8 this section shall make it lawful for 2, or more, labor orga-
9 nizations to enter into an agreement that restrains the
10 ability of an employee to select a collective representa-
11 tive.”.

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